

Department of Community Planning and Economic Development – Planning Division
Conditional Use Permit
BZZ-5877

Date: January 7, 2013

Applicant: Rick Lavelle of Reprise Design, on behalf of the Church of the Holy Name

Address of Property: 3621-37 11th Avenue S

Project Name: 12th Ave Daycare

Contact Person and Phone: Rick Lavelle, (952) 252-4042 extension 116

Planning Staff and Phone: Aly Pennucci, (612) 673-5342

Date Application Deemed Complete: December 4, 2012

End of 60-Day Decision Period: February 2, 2013

Ward: 8 **Neighborhood Organization:** Powderhorn Park Neighborhood Association

Existing Zoning: R2B Two-family Residence District

Zoning Plate Number: 26

Legal Description: Lots 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, Block 1 Estabrook's Addition To Minneapolis.

Together with that part of the adjoining vacated alley in said Block 1, Estabrook's Addition To Minneapolis, lying South of the extension across it of the South line of the North 24 feet of Lot 22 thereof, according to the recorded plat thereof.

(Per Warranty Deed Doc. No. 3866246)

Lot 23, Block 1, Estabrook's Addition To Minneapolis.

Proposed Use: Child care center

Concurrent Review:

Conditional use permit to allow a child care center.

Variance: to reduce the minimum off-street parking requirement from 21 spaces to 15 spaces.

Applicable zoning code provisions: Chapter 525, Article VII Conditional Use Permits; and Chapter 525, Article IX Variances, specifically section 525.520 (6) "To vary the applicable minimum and maximum number of required off-street parking, stacking or loading spaces."

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Background: The applicant is proposing a child care center in the existing building located at 3621-37 11th Avenue S. The proposed child care center will be located in one of three existing buildings on the subject site. The site is comprised of three structures that contain an existing church, an existing K-8 school and a vacant building that was most recently used by Reuben Lindh Family Services. The applicant is proposing to convert the vacant building to a child care center. A child care center in the R2B district requires a conditional use permit.

The existing building where the child care center will be located (3616 12th Avenue S) is a non-residential structure that most recently housed a commercial office use (Reuben Lindh Family Services). The previous commercial use in this building was non-conforming due to the fact that the property is zoned R2B, Two-family Residence District. The building has been vacant since October 2010. The establishment of a child care center will bring the property into conformance with the zoning code in terms of land use. Per Section 531.40 of the zoning code, when a non-conforming use is discontinued for a continuous period of more than one (1) year, it shall be deemed to be abandoned and may not thereafter be reestablished or resumed. Any subsequent use of the land or structure shall conform to the requirements of the district in which it is located.

The minimum vehicle parking requirement for a child care center is one (1) space per 500 square feet of gross floor area (GFA) plus two (2) drop off spaces (either off-street or on-street by permission of the city engineer). In this case the proposed child care center will have 9,280 square feet of GFA, which results in a minimum off-street parking requirement of 19 parking spaces plus 2 drop off spaces. The church and the school are also subject to a minimum parking requirement. The zoning administrator may authorize a reduction in the total number of required parking spaces for two (2) or more uses jointly providing off-street parking when their respective hours of peak operation do not overlap. The table below outlines the minimum off-street parking requirements for each of the uses located on this property at different hours and days of the week. The maximum number of parking required for all of the uses at any one time is 51 stalls on the weekdays and 53 stalls on the weekends. The subject site contains two surface parking lots that serve all of the uses. One lot on the southwest corner of the site contains 43 parking stalls and is available 7 days per week, 24 hours per day. The second lot, located towards the northeast corner of the site, contains 30 parking stalls; however, this lot is used as an outdoor play area Monday-Friday for the existing K-8 school and is not available for parking during the regular school day. This results in a deficiency to the minimum parking requirement of 8 stalls during peak, weekday hours. The applicant is proposing two drop-off spaces in front of the building, in the public right-of-way and is working with Public Works staff accordingly. With this, the child care center will be deficient six (6) off-street parking stalls during peak weekday hours and has requested a variance.

<i>Weekday Parking Calculation Per Table 541-4 Shared Parking Calculations</i>								
3621-37 11th Avenue S	Calculation	Spaces Required	2:00am- 7:00am	Spaces Required	7:00 am - 6:00 pm	Required before 6:00 PM	6:00 pm - 2:00 am	Require d after 6:00 PM
Church Sanctuary	6,050 sq. ft. (10% capacity)	40	0%	0	25%	10	50%	20
School	20 classrooms (1/per classroom)	20	0%	0	100%	20	25%	5
Childcare center	9,280 sq. ft. (2 drop off + 1 per 500 sq. ft. of	21	0%	0	100%	21	25%	5

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	GFA)							
	Total	81		0		51		30
<i>Weekend Parking Calculation Per Table 541-4 Shared Parking Calculations</i>								
3621-37 11th Avenue S	Calculation	Spaces Required	2:00am- 7:00am	Spaces Required	7:00 am - 6:00 pm	Required before 6:00 PM	6:00 pm - 2:00 am	Require d after 6:00 PM
Church Sanctuary	6,050 sq. ft. (10% capacity)	40	0%	0	100%	40	50%	20
School	20 classrooms (1/per classroom)	20	0%	0	30%	6	10%	2
Childcare center	9,280 sq. ft. (2 drop off + 1 per 500 sq. ft. of GFA)	21	0%	0	30%	6	10%	2
	Total	81		0		53		24

As of the writing of this report staff has not received comments from the Powderhorn Park Neighborhood Association. Any comments, if received, will be forwarded to the Commission.

CONDITIONAL USE PERMIT: to allow a child care center in the R2B, Two-family Residence district

Findings as Required by the Minneapolis Zoning Code:

The Minneapolis City Planning Department has analyzed the application and from the findings below concludes that the establishment, maintenance, or operation of the proposed conditional use:

- 1. Will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

The Planning Division does not believe that the child care center will be detrimental to or endanger the public health, safety, comfort or general welfare. The proposed child care center will be located within an existing, non-residential building. The existing building was originally constructed as a rectory, accessory to the church, in 1960. The building housed Reuben Lindh Family Services from 1971 until 2010 and currently is vacant. No modifications are proposed to the exterior of the building aside from a handicap accessible ramp to bring the building into compliance with building code requirements. The play area will be located to the rear of the building in an existing outdoor play area that is enclosed with a six foot tall solid wood fence.

- 2. Will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.**

The Planning Division does not believe that locating a child care center in the existing building will be injurious to the use and enjoyment of other property in the vicinity or impede the normal or orderly development and improvement of surrounding property for uses permitted in the

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district. The surrounding area is fully developed with residential uses, a place of assembly and a school. The portion of the site where the proposed child care will be located contained a social services facility where children were regularly on-site using the play area to the rear of the building. A child care center is a permitted conditional use in the R2B district and therefore the proposed use will bring the property into conformance with the zoning code in terms of land use. The proposal to incorporate this type of neighborhood oriented use into an existing building is expected to contribute to the overall goal of providing a wide range of goods and services for the area. The proposed use will be in keeping with the character of the area.

3. Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.

Utilities and access roads are existing and adequate. There will be no impacts made on the utilities, roads or drainage with the establishment of a child care center in the existing building.

4. Adequate measures have been or will be provided to minimize traffic congestion in the public streets.

The use is not expected to contribute to traffic congestion in the public streets. The building currently contains a K-8 school and a place of assembly. The vehicle parking requirement for child care centers is one space per 500 square feet of gross floor area, or a minimum of four spaces, plus two drop off spaces. The subject building is 9,280 square feet, which results in a minimum off-street parking requirement of 19 parking spaces plus 2 drop off spaces. As described in the background section, the zoning administrator may authorize a reduction in the total number of required parking spaces for two (2) or more uses jointly providing off-street parking when their respective hours of peak operation do not overlap. Staff has evaluated all of the uses located on the subject site and determined that the child care center will be deficient 6 parking stalls during peak weekday hours. A parking variance has been requested. Off-street parking for the proposed development is further analyzed below in the variance section of the staff report.

The use is also subject to specific development standards in Chapter 536 of the Zoning Ordinance, including a requirement for a designated area for the short-term parking of two vehicles engaged in loading and unloading of children. The applicant is working with Public Works staff to obtain two drop-off spaces within the right-of-way directly in front of the building.

5. The conditional use is consistent with the applicable policies of the comprehensive plan.

This site is designated as Urban Neighborhood on the future land use map in *The Minneapolis Plan for Sustainable Growth*. The Urban Neighborhood designation is describe as predominantly residential with a range of densities, with highest densities generally to be concentrated around identified nodes and corridors. Urban Neighborhood may include undesignated nodes and some other small-scale uses, including neighborhood-serving commercial and institutional and semi-public uses (for example, schools, community centers, religious institutions, public safety

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facilities, etc.) scattered throughout. According to the principles and policies outlined in *The Minneapolis Plan for Sustainable Growth*, the following apply to this proposal:

Land Use Policy 1.1: Establish land use regulations to achieve the highest possible development standards, enhance the environment, protect public health, support a vital mix of land uses, and promote flexible approaches to carry out the comprehensive plan.

1.1.5 Ensure that land use regulations continue to promote development that is compatible with nearby properties, neighborhood character, and natural features; minimizes pedestrian and vehicular conflict; promotes street life and activity; reinforces public spaces; and visually enhances development.

Land Use Policy 1.3: Ensure that development plans incorporate appropriate transportation access and facilities, particularly for bicycle, pedestrian, and transit.

1.3.1 Require safe, convenient, and direct pedestrian connections between principal building entrances and the public right-of-way in all new development and, where practical, in conjunction with renovation and expansion of existing buildings.

1.3.2 Ensure the provision of high quality transit, bicycle, and pedestrian access to and within designated land use features.

Land Use Policy 1.8: Preserve the stability and diversity of the city's neighborhoods while allowing or increased density in order to attract and retain long-term residents and businesses.

1.8.2 Advance land use regulations that retain and strengthen neighborhood character, including direction for neighborhood-serving commercial uses, open space and parks, and campus and institutional uses.

Allowing a child care center to be established in an existing building is consistent with the above policies of the Comprehensive Plan.

6. And, does in all other respects conform to the applicable regulations of the district in which it is located upon approval of this conditional use permit.

With the approval of the conditional use permit and the requested parking variance, the site and use will be in compliance with the applicable regulations of the R2B district.

Specific Development Standards:

In addition to the conditional use standards, the following specific development standards also apply to child care centers:

1. In the residence and OR1 Districts, the use shall be located in a nonresidential structure existing on the effective date of this ordinance, or nursing home.

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Staff comment: The use is considered a non-residential building. Because it was constructed as part of a religious institution, place of assembly campus it is not considered a residential building. Further, the building has since been used for non-residential purposes.

2. The use shall provide a designated area for the short-term parking of vehicles engaged in loading and unloading children, as specified in Chapter 541, Off-street Parking and Loading. The designated area shall be located as close as practical to the principal entrance of the building and shall be connected to the building by a sidewalk.

Staff comment: The applicant is proposing two drop-off spaces within the right-of-way directly in front of the building and is working with Public Works accordingly.

3. Play equipment shall not be located in required front, side, or rear yards and shall be effectively screened from any adjacent residential use located in a residence or office residence district or from a ground floor permitted or conditional residential use, as specified in Chapter 530, Site Plan Review.

Staff comment: Play equipment is proposed to the rear of the building and will be screened from adjacent residential uses by an existing 6 foot tall fence.

4. To the extent practical, all new construction or additions to existing buildings shall be compatible with the scale and character of the surroundings, and exterior building materials shall be harmonious with other buildings in the neighborhood.

Staff comment: No new construction is proposed. The child care center is proposed in an existing building.

5. An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening, and other site improvements consistent with the character of the neighborhood.

Staff comment: The property to the north of the site is a residential use. The outdoor area is screened via a 6 foot tall solid wood fence. The property to the west is open space owned by the Church and is affiliated with the subject site.

VARIANCE: to reduce the minimum off-street parking requirement from 21 spaces to 15 spaces

Findings Required by the Minneapolis Zoning Code:

1. **Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.**

The vehicle parking requirement for child care centers is one space per 500 square feet of gross floor area, or a minimum of four spaces, plus two drop off spaces. The subject building is 9,280 square feet, which results in a minimum off-street parking requirement of 19 parking spaces plus

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2 drop off spaces. As described in the background section, the zoning administrator may authorize a reduction in the total number of required parking spaces for two (2) or more uses jointly providing off-street parking when their respective hours of peak operation do not overlap. Staff has evaluated all of the uses located on the subject site and determined that the child care center will be deficient 8 off-street parking stalls during peak weekday hours. The applicant is proposing two drop-off spaces in front of the building, in the public right-of-way, and is working with Public Works staff accordingly. With this, the child care center will be deficient 6 off-street parking stalls during peak weekday hours and has requested a variance.

This proposal requires a parking variance from 21 stalls to 15 stalls. To meet the parking requirement, the applicant can also receive a reduction from 21 spaces to 19 spaces by providing a bicycle rack, per Section 541.220 of the zoning code, resulting in a needed parking variance of only four spaces. The bicycle parking requirement for a child care center is three short-term spaces. In order to meet the bicycle parking requirement and qualify for the parking reduction, a total of five bicycle parking spaces are required. Staff is recommending a condition of approval that requires that a minimum of five bicycle parking stalls are provided. Although overall the site does have enough parking to meet the requirements for all of the uses, due to the previous arrangement that allows the existing school to use a portion of the on-site parking area as a playground during weekday daytime hours, it is difficult for the proposed child care center to meet the minimum parking requirement during peak weekday hours. This circumstance was not created by the applicant and is unique to this property.

2. **The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.**

Parking minimums established in the zoning ordinance are intended to strike a balance between the needs of automobile users and the need to efficiently use land in a constrained urban environment. While there is likely to be an overall increase in parking demand and traffic near the site, that demand will occur at a time when on street parking is more readily available. Furthermore, the applicant is proposing two designated drop-off spaces in front of the building, in the public right-of-way. As a condition of approval, the applicant will be required to provide a minimum of five bicycle parking stalls, which reduces the required variance from a six stall reduction to four stalls.

3. **The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.**

As mentioned in the background of the report the character of the surrounding area is largely residential, predominated by single-family housing. Reducing the off-street parking requirement for this use may result in utilization of on-street parking in an area where single-family homes already supply adequate off-street spaces for their use. Designating on-street drop of spaces should help alleviate the demand. In addition, outside of the weekday daytime periods, the minimum parking requirement will be met on site. For these reasons, the requested variance is

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not detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.

RECOMMENDATIONS:

Recommendation of the Community Planning and Economic Development Department - Planning Division for the conditional use permit:

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the Conditional Use Permit for a child care center at the property of 3621-37 11th Avenue S, subject to the following conditions:

- 1) The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within two years of approval.
- 2) The use shall comply with the child care center development standards required by section 536.20 of the zoning code, and applicable signage standards in Chapter 543 of the zoning code.

Recommendation of the Community Planning and Economic Development Department - Planning Division for the variance:

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission adopt the findings above and **deny** the variance to reduce the minimum off-street parking requirement from 21 spaces to 15 spaces and in lieu thereof **approve** a variance to reduce the minimum off-street parking requirement from 19 spaces to 15 spaces for a child care center at the property of 3621-37 11th Avenue S, subject to the following conditions:

- 1) Two designated drop-off spaces shall be provided as approved by Public Works, as specified in Chapter 541, Off-street Parking and Loading.
- 2) A minimum of five (5) bicycle parking spaces shall be provided. The bicycle parking shall be located to the side of the building outside of all required yards or in the right-of-way if approved by Public Works.

Attachments:

1. Statement and findings from applicant.
2. Correspondence
3. Zoning map.
4. Site plans and floor plans.
5. Photos.